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CALFED BAY-DELTA PROGRAM

AUG 25 1999

Public Comment

Date 8/25/99

The CALFED Bay-Delta Program welcomes your participation. Please use the space below for your written comments (attach additional sheets if necessary).

Comments:

- Recommend making funding available for research on the effects of water salinity on different plant types
- Support source control as an efficient method of improving water quality. It is very expensive to remove salt from water
- Recommend considering the local cost of developing water in cost benefit analysis for developing water recycling projects

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particularly true of the water management elements and the role of surface storage, conveyance decision processes, the Finance Plan and Governance. CALFED refers to a variety of processes which will be necessary to provide further detail on these issues as a Record of Decision is developed. Decisions which may be provided on these elements may imply environmental and other impacts which are not described in the PEIS/EIR. CALFED must immediately outline a schedule for resolution of these issues and a process whereby meaningful stakeholder input can be realized.

CALFED must explicitly recognize and actively manage often conflicting mandates. CUWA urges CALFED agencies to pursue a coordinated decision process that acknowledges the linkages between CALFED, CVPIA, and Trinity River Restoration activities. The decisions regarding these three programs must be linked to ensure maximum coordination. The CVPIA and Trinity River Restoration activities have the potential to constrain water supplies, and these constraints need to be addressed by CALFED to ensure adequate water supplies for M&I users. The Record of Decision for CALFED should reference the need to address water supply reliability issues created by CVPIA and Trinity River Restoration. Ultimately, CALFED must maximize regulatory certainty for water users though linkage to appropriate, aggressive ecosystem restoration.

Water Quality

Achievement of source water quality improvement is paramount to CUWA. CUWA supports achievement of CALFED's long-term water quality target of 50 µg/l bromide and 3 mg/L total organic carbon (TOC) or an equivalent level of public health protection through a cost-effective combination of conveyance changes, alternative source water, source control, and treatment. Obtaining these targets will help ensure that urban agencies can meet future U.S. Environmental Protection Agency regulations for disinfection by-products and pathogens. While the long term targets are appropriate and supported, CUWA is concerned that the Water Quality Program Plan acknowledges that the Stage I actions will not in themselves reach the targets and that achievement of same is dependent on future decisions related to storage and conveyance or other non-source quality actions. It is unfortunate that Stage I actions on water quality are not sufficient to achieve CALFED's long-term targets and may not even be sufficient to assure continous improvement in source water quality. CALFED needs to make explicit, consistent acknowledgement of this reality in the body of the PEIS/EIR, Phase II Document and Findings, not just in the Water Quality Program Plan. Further, the Final PEIS/EIR should disclose the consequences of not meeting its water quality targets. This should include estimated expenditures for enhanced water treatment facilities and alternative water supply sources and an evaluation of the feasibility/effectiveness of these alternatives versus a Delta solution.

CALFED should commit to improve or maintain existing high quality urban water supplies and in-Delta supplies. CALFED must also adopt intermediate milestones for drinking water parameters such as bromide and TOC. Intermediate milestones are needed to indicate whether CALFED has achieved its stated goals of continuous improvement in water quality during Stage 1 (the first 7 years) and to ensure that urban agencies treating

Delta water can comply with drinking water requirements using cost-effective feasible technology. We reiterate our recommendations that these intermediate water quality milestones be based on those mentioned in our letter to Lester Snow dated May 20, 1999 (Attachment E). These were a bromide concentration < 300 μg/L and TOC concentration < 4.0 mg/L by 2002 and bromide < 100-150 μg/L and TOC < 3.5 mg/L by 2005. These intermediate milestones would be quarterly (3-month) averages. It is important to adopt intermediate milestones in order to track short term changes in quality against intermediate benchmarks of continuous improvement and assure improvement takes place versus degradation.

CALFED needs to also adopt water quality objectives and intermediate milestones for salinity for the purposes of achieving its water supply reliability goals. CALFED relies extensively on water recycling and improved conjunctive use to help lower the growing gap between supply and demand. Without improvement in source water salinity, achieving these objectives may be uneconomical at best and potentially infeasible. The Water Quality Program Plan (page D-5) indicates that CALFED's targets for salinity reduction in Delta drinking water supplies are 220 mg/L TDS (10-year average) and 440 mg/L TDS (monthly average). CUWA believes these salinity targets are not sufficiently protective of Delta drinking water supplies and will not ensure the ability to meet CALFED goals for water use efficiency and water recycling. CUWA is currently conducting an analysis of the cost and water resource management implications of source water quality salinity levels and will provide specific suggestions and rationale for salinity objectives under separate cover.

The actions included in the Water Quality Program Plan are primarily source control or pollutant reduction actions. The feasibility and cost-effectiveness of these actions are largely unknown. While we recognize that CALFED intends to determine the feasibility and cost-effectiveness for the actions during the early stages of implementation, it is not possible at this point to determine the precise effect of the actions on Delta water quality. Most of the actions can at best be characterized as pollution prevention actions that will help ensure no further degradation of water quality in the Delta; however, there is little or no evidence that the proposed actions will actually improve water quality in the Delta beyond existing conditions. As a result, statements in the Revised Draft PEIS/EIR that assume that Water Quality Program actions will improve water quality for municipal supplies are not supported by the Program Plan document.

In the Drinking Water chapter of the Water Quality Program Plan, CALFED discusses the limitations of the Water Quality Program actions with respect to improving drinking water quality and achieving reduced levels of bromide, TOC and salinity (pages 3-3, 3-11 and 3-46). CALFED states that Water Quality Program actions are not likely to achieve reductions in bromide and in salinity derived from seawater intrusion, and points out that the feasibility of actions to reduce TOC is largely unknown. In addition, CALFED points out that implementation of Ecosystem Restoration Program actions may result in increased levels of TOC in the Delta. Given this information, it is clear that the CALFED goal of continuous improvement in drinking water quality is unlikely to be achieved during Stage I. This situation is unacceptable and points to the need for

CALFED to develop and commit to a set of actions tied to intermediate milestones for water quality improvement to ensure drinking water quality improvement goals are achieved.

In both the Water Quality Program Plan (page 12-10) and the Revised Phase II Report (Page 43), CALFED introduces the concept of the Drinking Water Quality Improvement Strategy. CUWA supports the overall concept of the Strategy, but is concerned that there is insufficient detail to evaluate whether or not it will be effective. The Strategy includes a combination of elements to achieve drinking water quality improvement and public health protection, including source control actions, storage and operations, alternative sources of water, advanced treatment, health effects studies, and if found to be necessary, conveyance improvements. However, the only actions described in any detail are the source control actions described in the Water Quality Program Plan, whose limitations we note above. CALFED makes no commitment as to timing, decision process or implementation of the other elements of the Strategy. In order to achieve continuous improvement in water quality and meet CALFED goals, CALFED must establish a clear set of actions and a schedule for implementing all elements of the Drinking Water Quality Improvement Strategy in a balanced manner starting early in Stage 1. It is not acceptable to implement only source control actions in Stage 1 and wait for a determination of their effectiveness before taking action to implement the other elements of the Strategy when CALFED itself states Stage I actions are not sufficient to the task at hand.

CUWA strongly supports the proposal to establish a Delta Drinking Water Council to advise CALFED on changes needed in the CALFED Program to achieve drinking water quality objectives, and review work by independent expert panels related to drinking water issues. The Delta Drinking Water Council is also tasked with preparing findings at intermediate stages during Stage 1 (2003 and 2007) assessing trends in Delta water quality, trends in treatment technology and regulation and recent findings and summary status of human health effects of disinfection byproducts.

The Delta Drinking Water Council should include representatives from agencies responsible for regulating drinking water, urban drinking water agencies that treat and deliver Delta water supplies and regions potentially physically affected by facility decisions recommended by the Council. As urban drinking water agencies are responsible for delivering safe drinking water that meets all state and federal regulations, they should have a proportionally greater representation on the Delta Drinking Water Council to ensure meaningful representation. In addition the urban drinking water agency representatives on the Council should include representatives from both northern and southern California urban water agencies.

The Council is proposed by CALFED as a BDAC subcommittee. CUWA believes that the Council must have direct access and reporting to the CALFED Water Policy Group as well as BDAC.

CALFED should provide financial and policy level support for the development of a Drinking Water Protection Policy by the Central Valley Regional Water Quality Control Board, working with the State Water Resources Control Board, Department of Health Services, San Francisco Bay Regional Water Quality Control Board, and the U.S. Environmental Protection Agency. This policy will include the development of water quality objectives for TOC, TDS, bromide and pathogens, and the development of a management plan to meet the objectives. Development of this policy is important for achieving drinking water quality improvement, and should include the establishment of a coordinated strategy to reduce the water quality impacts of wastewater discharges and other sources of drinking water contamination. In addition, establishing water quality objectives is key to the future development of TMDLs for drinking water parameters of concern.

CALFED has proposed a number of actions to improve source water quality in the Delta and the tributaries and there is much discussion in the Phase II report about measuring the effectiveness of these actions to determine if water quality conditions have improved. CALFED needs to determine and disclose the baseline water quality conditions under various hydrologic year types and seasons so that future water quality conditions can be evaluated against this baseline. It will be important to have the data statistically analyzed and to have agreement among stakeholders and CALFED agencies on the baseline conditions. This information needs to be established as part of a comprehensive monitoring program during the early years of the CALFED program.

CALFED must clarify its commitments to Stage 1 actions and clarify differing stage 1 lists within the PEIS/EIR and appendicies. See Attachment D for further explanation of the inconsistencies in the document.

The Water Quality Program Plan appropriately discusses the need to adaptively manage the Water Quality Program and the need therefore, to review and change actions over time as we learn more about the system. The Water Quality Program Plan should, however, contain the complete list of actions (Priority Actions) that have been identified at this time. The Stage 1 actions should be a subset of the Priority Actions that need to be completed in the first seven years of the Program and the Stage 1A actions should then be a subset of the Stage 1 actions that need to be completed in the first two years of program implementation. There are currently a number of Stage 1A actions that do not appear on the Stage 1 lists or in the discussions of Priority Actions. A tiered approach going from Priority Actions to Stage 1 Actions to Stage 1A Actions would help organize the long list of seemingly unrelated actions into a cohesive plan.

Water Supply and Water Management

CUWA believes that a combination of new groundwater and surface water storage is necessary to capture water during high runoff periods and improve Delta water quality, supply reliability and ecosystem improvement. CALFED's modeling runs clearly show that flows required for the Ecosystem Restoration Program reduce the reliability of supplies for other uses. They also show that storage can be developed to mitigate these

losses and provide for increased reliability to meet CALFED goals. Discussion to this effect should be added in the final report and findings.

As the Program documents point out, conservation will most often not result in new Delta flows unless storage is available in wet years to capture unneeded water. Conservation will generally not help improve water quality unless the water can be stored for use when water quality is poor. High winter flows cannot be captured and stored in sufficient quantity in groundwater because of the slow rate at which water can be spread or injected into groundwater aquifers.

Current modeling indicates additional storage immediately adjacent to and/or south of the Delta has the greatest potential for producing improvements in delivered water quality and improving supply reliability. This should be validated by the Integrated Storage Investigations. Such storage would allow the capture of high quality water during flood events for subsequent delivery to water users without being affected by limitations on diversions.

CUWA continues to have serious concerns regarding storage of water on Delta islands consisting of peat soils. Recent field experiments conducted for CUWA and the Department of Water Resources have confirmed that storage of water on peat soils creates high levels of total organic carbon in the water stored. TOC is a regulated precursor to drinking water contaminants. CALFED must provide assurances that any use of in-Delta storage is consistent with continuous improvement in water quality as well as intermediate and long term drinking water goals. We are also concerned about impacts of in-Delta storage on salmonids migrating from east-side tributaries and the San Joaquin river.

The CALFED PEIS/EIR includes a proposal to establish an Environmental Water Account (EWA) to enable more efficient use of water for environmental purposes and decrease the conflict in uses of Bay-Delta water supplies. The EWA will allow more flexible operations to provide additional fisheries benefits when most needed and will allow modifications of operational limitations when there will be no fisheries impacts. CUWA believes that the EWA should be implemented as soon as possible to allow these benefits to be realized.

However, the EWA, like all CALFED actions and alternatives, must be designed in such a way that new benefits are shared , that any new water is allocated consistent with CALFED's water supply and water quality, as well as environmental objectives. If not properly operated, the EWA could cause significant degradation of water quality at municipal diversion points and significantly reduce the operating flexibility of the system.

The revised Draft PEIS/EIR outlines a process for determining the conditions under which any additional conveyance facilities and/or other water management actions would be considered. These include an evaluation of how urban water agencies can best provide a level of public health protection equivalent to Delta source water quality of 50 µg/L bromide and 3 mg/L TOC, an evaluation based on independent expert panels' reports on CALFED's progress toward these measurable water quality goals and CALFED's

progress toward ecosystem restoration objectives, with particular emphasis on fisheries recovery. CALFED must also develop the planning process for determining the need for additional facilities and/or other actions, inasmuch as the Water Quality Program Plan indicates that current Stage 1 actions will not achieve CALFED's water quality targets. CALFED must also immediately begin collection and analysis of water quality and biological data. These data are necessary to evaluate CALFED's progress toward meeting its goals and can be used in any decisions regarding the need, sizing, and timing of an isolated facility or any other additional facilities.

Ecosystem Restoration

CALFED needs to provide additional, more complete supporting scientific justification for the Ecosystem Restoration Program (ERP) restoration objectives, targets, actions for species recovery, habitat restoration and ecological processes, in the ERP Volumes I and II. It also should provide refined, clearly understandable ERP selection and prioritization criteria and use them to support implementation recommendations. Additional more detailed, broadly supported conceptual models in the ERP to assess both current conditions and potential benefits of restoration actions are needed.

CUWA is concerned that water supply needs for ecosystem restoration are not well justified. Additionally, better integration of Delta water project operations and the ERP should be described. CALFED should provide technical analysis and scientific justification in the ERP specifically in support of recommended environmental water flow actions and demonstrate how such actions will be adaptively managed consistent with other objectives of the Program.

Linkage between the ERP and the Comprehensive Monitoring, Assessment and Research Program (CMARP) - is critical to program success and better ecosystem restoration decisions. CALFED should provide additional analysis and scientific justification to identify how to best link the ERP actions with the necessary monitoring and research to guide adaptive management. Similarly, CALFED should provide clearer documentation of the consistency between the ERP and MSCS

CUWA is concerned that the CALFED PEIS/R has not sufficiently addressed the environmental impacts of the preferred alternative on the fisheries of Eastside tributaries and fall-run chinook salmon. The Mokelumne, Cosumnes and Calaveras rivers should be considered independently from the San Joaquin River due to hydrologic and ecological conditions.

Comprehensive Monitoring, Assessment and Research Program

CALFED should provide an explanation of how CMARP is to be integrated with the ERP (or the other CALFED programs), as there is no effective linkage shown between the ERP and CMARP programs in the documentation. The potential Stage I activities of CMARP (page 151-152, Revised Phase II Report) do not mesh well with the potential ERP actions for Stage 1 (pages 11-14, Draft Implementation Plan). Explain how CMARP

science will be brought to the ERP, at a programmatic, implementation or budgetary level, as CMARP and ERP appear to be on separate tracks based on the documentation.

CALFED indicates in the draft Implementation Plan (pages 29-40) that $38.3 million for unspecified science and monitoring will be pursued for both in ERP and CMARP. CALFED should provide an explanation and justification at to what this funding would cover and how critical or effective it is expected to be.

Water Use Efficiency

CALFED's assurance strategy for urban water conservation is to support certification of urban BMP's by the California Urban Water Conservation Council. CUWA worked with the Environmental Water Caucus to propose to CALFED a framework for that process. Agreement between CUWA and the EWC to support that framework is contingent upon acceptance of an overall CALFED plan acceptable to each organization. There are many substantive unresolved issues related to operating details not contained in the framework, and our satisfaction that CALFED program benefits will be worth the acceptance of a new regulatory burden, that are necessary to close prior to a Record of Decision before CUWA can accept a CALFED decision. CUWA members have demonstrated good faith effort and intention through their active, voluntary participation in the California Urban Water Conservation Council and voluntary implementation of the BMPs. However, until such time we have satisfaction that a balanced overall program has been adopted, we will not support a mandatory certification process.

CALFED plans to identify measurable goals and objectives for urban water conservation and recycling by the time of the ROD. Any measurable objectives for conservation must be related to the installation of water conservation devices in urban regions or implementation of other conservation related programs rather than goals of acre-feet savings as a result conservation measures. This is consistent with agreements that led to the establishment of the California Urban Water Conservation Council. Further, CUWA does not support linking numeric targets for urban recycling to decisions on other actions such as authorizing new storage. Recycling of water in urban areas is subject to many variables that affect the feasibility and cost-effectiveness of recycling programs. This variability makes it impossible to accurately predict future recycling amounts and impractical to assure any specific numeric objective will be met without ignoring local conditions, needs and economics.

We note that based upon previous comments, estimates for real urban conservation savings (irrecoverable losses) as stated in the Water Use Efficiency Program Plan have been reduced from 2.35 to 1.33 maf during the program's duration. We believe these estimates are a more realistic estimate of potential savings from residential indoor conservation, commercial - industrial - institutional conservation and distribution system loss reduction potential. However, it must be emphasized in the document that such estimations are not a well-refined science and could deviate significantly due to confounding factors. CUWA is commissioning further technical work in this area and we

hope to work with CALFED and others to refine these estimates during Stage I as part of adaptive management. We also note that the document has improved in its estimates and explanations of potential BMP costs over the original draft PEIS/EIR.

CALFED's recycling estimates are overly optimistic. While, the no action recycling assumptions in the Plan have been lowered by 400kaf over the previous DEIS/EIR, to a total potential of about 2.0maf, this Plan still assumes however that 65% of wastewater flows can be recycled. To reach this level would require massive storage for reclaimed water during winter months to make this water available for irrigation demands which exist only during warmer seasons. Further, such storage would usually require significant investments in pipelines and pumping stations to elevate water from the treatment plants to a storage location which can then serve irrigation uses, provided usable sites are even available. This combination of costs greatly inhibits the ability to achieve the level of recycling CALFED is assuming. A more realistic outer limit figure based upon experience and reflecting available uses which can be cost-effectively connected to a reclaimed water system is 30-40%.

While the issue of salt and water management, including recycling is discussed elsewhere in the PEIS/EIR, there is no discussion on limits to recycling imposed by high salinity imported water in the Water Use Efficiency Program Plan. The final document should have a discussion of these limitations as they will bear greatly on the ability to increase recycling, particularly in Southern California which has the most serious salt problem.

Water Transfer Program Plan

The purpose of CALFED's water transfer framework is to facilitate and encourage the use of water transfers as a water management tool. Some of the potential solution options put forth in the document, however, run the risk of further encumbering transfers rather than encouraging a more successful market. CALFED should take care that its proposals avoid increasing unnecessary regulatory and other hurdles to water transfers.

CALFED's water transfer framework should not increase the time necessary to achieve a transfer or impose other burdens which deter transfers from taking place. CUWA supports CALFED's objective of addressing the physical constraints that need to be resolved for a more effective water transfer system, particularly for cross-Delta transfers. However, CUWA is concerned that CALFED actions could actually decrease the Bay-Delta system's already limited ability to accommodate water transfers, contrary to CALFED's goals. The EWA, for example, if not properly operated could significantly reduce the operating flexibility of the system. CALFED must ensure that its actions do not hinder the ability of water users to meet their water supply needs through water transfers.

A non-regulatory Water Transfer Information Clearinghouse that provides neutral information on water transfers could be useful in meeting the assurance needs of source

area stakeholders. However, the Clearinghouse should not make technical or quasi-technical determinations on individual water transfers.

Implementation Plan

CALFED needs to develop a well-defined detailed assurances package regarding operations of new facilities and protection of existing rights and beneficial uses. These assurances need to address compliance with applicable laws, policies, and plans, and regulatory framework. Chapter 8 in the revised Draft PEIS/EIR should be revised to include discussion of California's area of origin statutes (e.g., Water Code sections 11460 and 10505 et seq.).

Implementation Plan – Governance

It is imperative that CALFED come to closure on governance issues by the Record of Decision. CUWA, along with other major stakeholders, supports the creation of a joint federally and state chartered oversight entity for overall program coordination, tracking and adaptive management as well as an entity to run the Ecosystem Restoration Program. The latter may be accomplished however, by the appointment of a Chief Restoration Scientist within the oversight entity provided that person be given sufficient authority to direct and coordinate CALFED agencies involved in restoration.

CUWA has significant concerns regarding governance for the Water Use Efficiency Program – see comments above under Water Use Efficiency and below under Implementation Plan – Stage 1 Implementation.

Implementation Plan- Finance

CALFED must strive to quantify benefits to each identified beneficiary group. In order to secure buy-in to CALFED's beneficiaries-pay principle, each beneficiary must be shown identifiable, tangible, and quantifiable benefits in each of the program areas that "beneficiaries" are expected to pay. Using the Water Quality Program as an example, we expect CALFED to demonstrate, to urban water users as a potential beneficiary expected to pay, the level of reduction in parameters of concern, such as bromide and total organic carbon, that would result from the proposed actions. This "benefit" could then be valued at treatment costs avoided or other measures of willingness to pay.

The technical analysis in the draft PEIS/EIR does not support the benefits analysis in the Finance Plan, particularly in the areas of supply reliability and water quality. According to the draft PEIS/EIR, the reliability of Delta water supplies may decrease substantially in the future whether or not the preferred alternative is implemented. This conclusion, if correct, does not support the draft finance plan's claim that the Ecosystem Restoration Program (ERP) and Watershed Management Program (WMP) would increase water users' supply reliability. The analysis presented in the draft PEIS/EIR and WQP Appendix also does not support the draft finance plan's assertion that the WQP, or other common programs, will provide public health benefits or reduce salinity levels for M&I

water users. The Water Quality Program (WQP) Appendix indicates that WQP actions will minimally affect bromide levels, particularly for SWP users, and will not reduce salinity resulting from seawater intrusion. Actions to control San Joaquin River salinity levels are described in the Appendix as having limited long-term sustainability. The Appendix suggests that organic carbon might be subject to control by drainage treatment, if the technology can be proven and if it can be made economically feasible; however, only pilot-scale drainage treatment projects are proposed for Stage 1.

CALFED does not differentiate between general public benefits and water user benefits. Throughout the draft finance plan, CALFED proposes to rely on water user fees to pay for programs that provide public or environmental benefits. While a broad-based user fee may be appropriate in some instances, it is not a surrogate for public financing sources such as federal and state appropriations or general obligation bonds. CALFED should not shy away from these public financing mechanisms simply because they would require voter approval. To the contrary, a voter approval process would legitimize the public's willingness to pay for public benefits such as ecosystem restoration and a healthy environment.

The draft finance plan frequently references the 1996 Business Leaders' Report on Financing as justification for a diversion fee to fund the portions of the CALFED Program that provide broad-based public benefits. The 1996 Report did identify a diversion fee as an option for funding public benefits, but only to the extent that general obligation bonds or other appropriate public financing sources are not forthcoming. The Report specifically identified ecosystem restoration as a public benefit that may be appropriately funded with general tax revenues. The more appropriate role of the diversion fee, as described in the Report, would be to fund projects or actions that provide so-called "common property" benefits, i.e., benefits that accrue to identified groups of resource users, but from which individual users cannot be excluded. The draft Finance Plan does not appear to recognize this distinction, and instead seems to view the diversion fee simply as a convenient source of funding not linked to any specific water user benefits.

Diversion fees assessed to water users can only be supported if they are linked specifically to tangible benefits and are part of a broad, wide-ranging plan that also includes public financing. The draft finance plan appears to single out water users – particularly *urban* water users – as the source of "deep pockets" that CALFED will tap liberally for the majority of long-term funding. This is true even for programs that may provide broad-based, public benefits, regardless of how much (or how little) water users stand to benefit. For instance, the draft finance plan identifies a Delta diversion fee as a potential funding source for various elements of the CALFED Program, including environmental storage, the portion of conveyance facilities dedicated to the ecosystem, and the ecosystem portion of the common programs. Unfortunately, the analysis in the draft PEIS/EIR does not demonstrate that water users will benefit from these programs. To justify water user funding for these programs, CALFED must provide regulatory assurances that protect water users from additional negative impacts on their water supplies due to Endangered Species Act listings or other regulatory actions.

Urban water conservation and recycling projects also provide public benefits. We disagree with the draft plan's suggestion that the public benefits from WUE measures only in those cases when the measures improve Delta water quality or produce water that is dedicated to the ecosystem. Through conservation and recycling, urban agencies have substantially reduced their total water demands. The Metropolitan Water District estimates that its member agencies save more than 700,000 acre-feet of water annually through conservation and recycling programs. Clearly, these water use efficiency efforts help reduce conflicts in the Delta system, providing a substantial public benefit.

Proposed Water Use Efficiency Program (WUEP) funding options do not provide adequate financial incentives for projects that are not locally cost effective. Three of the four options proposed for funding WUE measures would limit public funding, either entirely or to a great extent, to those projects that improve water quality or produce water for the environment. We are concerned that the proposed options will be ineffective in helping CALFED reach its very ambitious water conservation and recycling goals. The draft PEIS/EIR projects that CALFED could, through its WUEP actions, more than double the amount of urban conservation and recycling than would otherwise occur. Achieving this goal -- if indeed it can be achieved -- will require the implementation of water conservation and recycling measures that are not locally cost-effective. The funding options proposed in the draft Finance Plan would not, except in a few isolated cases, provide urban agencies incentives to implement these more expensive projects.

CALFED must demonstrate that its Program is more cost-effective to "buy into" than for agencies to seek their own alternative solutions. Our customers hold us as urban water providers accountable for providing a reliable water supply of the highest quality in the most cost-effective manner possible. We supported CALFED because we believed it offers the best opportunity to resolve Bay-Delta issues while helping us to achieve our reliability and quality goals. CALFED needs to demonstrate that its Program indeed provides the value that we can responsibly pay for and receive. There must be a nexus between costs imposed by CALFED on urban agencies and both the rationale for and the ability to recover these costs through water rates. Although CALFED may intend to influence water use behaviors and public values by increasing the price of water, water agencies cannot do this as a matter of law. Water agencies are restricted to set water rates based on the costs of providing water supply services. CALFED must provide direct value in exchange for these costs for so that water agencies can demonstrate to their ratepayers a connection between the rates and charges they apply and the actual costs of providing water supply.

The draft financing plan must account for the cost of re-operating the SWP and CVP to achieve new environmental purposes. The draft plan appears to assume that the SWP and CVP will not only: a) Continue to operate to meet both existing and new Delta standards, but will re-operate existing project facilities to support the Environmental Water Account. But accomplishment of these objectives means the projects will lose flexibility and the project contractors will incur additional risks due to deferred and make-up pumping. CALFED seems to have ignored the costs that the projects and their contractors are incurring because of these new environmental purposes.

CALFED must be consistent in applying policies in the draft finance plan. There are many inconsistencies in the draft finance plan as illustrated below: The draft plan requires beneficiaries to pay the full cost of planning, design, construction, and operations and maintenance of some types of facilities. But this is not true for other types of facilities, particularly where CALFED believes it needs to court local support, e.g. groundwater storage. CALFED must address this apparent contradiction.

a) CALFED seems to legitimize "ability-to-pay" issues for levee work but insists that all water users must pay the full cost of new supplies. CALFED must disclose what criteria are being used in applying these broad policy principles.
b) The draft finance plan introduces a "polluters-pay" concept as a financing option for the Water Quality Program. The WQP Appendix notes that the restoration and creation of wetlands under the ERP could increase organic carbon and bromide concentrations in Delta water (page 3-8). Assuming that research confirms the suspected link between proposed ERP actions and drinking water quality degradation, how does CALFED propose to mitigate for this effect? This issue has implications for how the WQP and portions of the ERP, which impact achievement of other objectives are funded.

All beneficiaries of the CALFED Program should bear an equitable share of program costs. Although CALFED has in the past supported the development of a broad, wide-ranging plan incorporating all types of user fees and public financing, the draft finance plan focuses almost exclusively on water user fees. Recreational boaters, dischargers, those conducting dredge and fill operations and others should share program costs. As an example, one of CALFED's Ecosystem Restoration goals is to "maintain and enhance populations of selected species for sustainable commercial and recreational harvest". Commercial and recreational fishermen are identified as beneficiaries but they have not been included in the financing options. CALFED should expand the draft plan to include fees on all users of Bay-Delta resources that will benefit from the program.

Implementation Plan - Stage I Implementation

Stage 1 Implementation - CUWA is supportive of CALFED's overall water quality program objectives and recognizes CALFED's commitment to implementation of early action bundles in Stage 1A. To that end CUWA believes the following projects listed in attachment A to this letter should be included in this Stage 1A bundle, most of which are generically described in Section 2.2 of the CALFED Implementation Plan technical appendix. Additionally, the level of detail provided on each of the projects in the technical appendix should be greatly expanded when a Stage 1a implementation plan is developed to delineate project schedule, regulatory requirements, budget, and necessary personnel. Attachment B to this letter includes a sample format for two example CALFED Stage 1A projects which contains the minimum level of detail necessary to form an implementation plan. To these samples CALFED would need to add budget and personnel requirements.

Water Use Efficiency - CUWA supports the concept of a Public Advisory Committee to advise CALFED on the structure and implementation of its assistance programs for water use efficiency.

CALFED is indicating it will pursue the development of mandatory Urban Water Management Plan and Urban BMP Certification processes. While CUWA has suggested acceptable forms of an UWMP certification process and jointly submitted a proposal for an Urban BMP Certification process, CUWA and the Environmental Water Caucus linked support for any BMP certification process on implementation of a CALFED Bay-Delta Program solution.[1] Until a Record of Decision is reached which allows for balanced improvements in all CALFED program areas, CUWA is withholding support for creation of these mandatory processes as described in section 2.4, page 15. Without commitments to improve supplies and reliability beyond the limited but important scope of conservation, there is no incentive to support a regulatory program which will not in itself produce savings.

Maintaining balanced improvement under all Program areas is important. In order to maintain support for the Program, CALFED will need to make a finding under Section 404 of the Clean Water Act, through the Integrated Storage Investigation by the time of a Record of Decision. This finding will need to define the approximate amount of surface and groundwater storage necessary to meet program goals. Regional locations for approximate amounts of this storage must be identified. Without storage to provide water to the Environmental Water Account, provide for the new environmental flows called for in the Ecosystem Restoration Plan and improve water quality and water supplies for all consumptive users above the baseline of the Accord and CVPIA, CALFED's water supply reliability goals will not be met and thus balanced implementation would not occur.

Conveyance - Evaluation of future conveyance improvements which may be necessary to meet drinking water quality goals and fish recovery goals is supported. CALFED should note that conveyance improvements may also be necessary to reduce salinity in order to cost effectively achieve goals for recycling. Evaluations based upon water quality criteria should be reviewed through the Delta Drinking Water Council and should coincide with federal decisions on future drinking water standards which will define feasible alternatives. Thus, formal reviews should occur directly following or concurrent with these federal decisions scheduled for 2002 and 2007.

CUWA appreciates the opportunity to provide input on the CALFED Bay-Delta Program. We look forward to positive progress in the final documentation and implementation of Stage I.

[1] CUWA/EWC Principles Supporting the Joint Development and Advancement of an Urban Water Conservation Framework as Part of the CALFED Water Use Efficiency Common Program, December 3, 1996.

Sincerely,

Byron M. Buck
Executive Director

Attachments (5)

A. CUWA Suggested Stage IA Projects
B. Veale Tract Drainage Management Study/South of Delta Groundwater Storage
C. Letter to Lester Snow, September 22, 1999 CUWA Comments on Phase II Document
D. Specific Comments by the CUWA on the CALFED Bay-Delta Program Draft EIS/EIR of June 1999.
E. May 20 Letter from Byron Buck to Lester Snow re Source Water Quality Intermediate Milestonse